

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON, AT SEATTLE

OMNI INNOVATIONS, LLC., a Washington Limited Liability company; EMILY ABBEY, an individual,

NO. C06-1469-JCC

Plaintiffs,

V.

IMPULSE MARKETING GROUP, INC., a Nevada/Georgia corporation; JEFFREY GOLDSTEIN, individually and as part of his marital community; KENNETH ADAMSON, individually and as part of his marital community; GREGORY GREENSTEIN, individually and as part of his marital community; STEVE WADLEY, individually and as part of his marital community; JOHN DOES, I-X,

DECLARATION OF SEAN A.
MOYNIHAN

Noted for Consideration: October 5, 2007

Defendants.

SEAN A. MOYNIHAN, an attorney and counselor at law duly licensed in the State of New York and admitted *pro hac vice* in this action, declares:

1. I am a partner with the law firm of Klein Zelman Rothermel LLP, counsel for Defendants Impulse Marketing Group, Inc. ("Impulse") and Jeffrey Goldstein ("Goldstein") (collectively "Defendants") in the above-captioned action. I submit this declaration to supplement the Declaration of Stacy K. Wolery in Support of Defendants' Motion to Dismiss for Failure to Comply with Court Order ("Wolery Declaration") because new facts pertaining to the procedural

DECLARATION OF MOYNIHAN - I
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1 aspect of this action have arisen since the Wolery Declaration was filed. Except as to matters
2 alleged below as being upon information and belief, I am fully and personally familiar with the
3 facts and circumstances set forth herein.

4 2. On or about September 11, 2007, the Court granted Plaintiffs' counsel's motion to
5 withdraw, effective October 11, 2007.

6 3. On or about September 25, 2007, Plaintiffs filed their Second Amended Complaint
7 ("Amended Complaint"). The Amended Complaint was over five weeks late.

8 4. Defendants' counsel received a copy of the Amended Complaint on or about
9 October 1, 2007. Included with the Amended Complaint, and referenced therein as Exhibit A,
10 was a CD. The CD allegedly contains the e-mails upon which Plaintiffs based their complaint.

11 5. The CD contains numerous .pdf files. Because of the format of the CD, reviewing
12 the numerous files is cumbersome and the text is difficult to read.

13 6. The Amended Complaint itself does not include any statements as to the specific
14 e-mail addresses to which the e-mails were allegedly sent or the specific dates on which the e-
15 mails were allegedly sent.

16 7. On or about October 1, 2007, Plaintiffs filed their response to Defendants' Motion
17 to Dismiss for Failure to Comply with Court Order ("Motion to Dismiss"), alleging that the filing
18 of their Amended Complaint placed them in compliance with the Order of the Court dated July
19 18, 2007 (the "July 18th Order") and that, as a result, Defendants' Motion to Dismiss was moot.

20 8. Pursuant to the July 18th Order, Plaintiffs' Amended Complaint was actually due
21 over five weeks earlier, on or about August 17, 2007.

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24 DECLARATION OF MOYNIHAN - 2
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9. As a result of Plaintiffs' continuing pattern of dilatory conduct, Defendants have been forced to expend substantial sums on their legal defense.

DATED this 5th day of October, 2007.

/s/Sean A. Moynihan, Esq.
Sean A. Moynihan, Esq.

DECLARATION OF MOYNIHAN - 3
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1
2 **CERTIFICATE OF SERVICE**
3

4 I hereby certify that on the date noted below I electronically filed the document entitled
5 Declaration of Sean A. Moynihan in accordance with the Clerk of the Court using the CM/ECF
6 system which will send notification of such filing to the following persons:
7

8 Robert J. Siegel, WSBA #17312
9 i.Justice Law P.C.
10 1325 Fourth Avenue, Suite 940
11 Seattle, WA 98101
12 Bob@iJusticelaw.com

13 Douglas E McKinley
14 LAW OFFICE OF DOUGLAS E MCKINLEY JR
15 PO BOX 202
16 RICHLAND, WA 99352
17 doug@mckinleylaw.com

18 DATED this 5th day of October, 2007.

19 JACKSON & WALLACE LLP

20 _____
21 /s/ Matthew R. Wojcik
22 Matthew R. Wojcik, WSBA No.27918
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